



Agenda Date: 5/16/06  
Agenda Item: 8A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.bpu.state.nj.us](http://www.bpu.state.nj.us)**

**AUDITS**

**ORDER**

IN THE MATTER OF THE DEFERRED BALANCES )  
AUDIT OF JERSEY CENTRAL POWER & LIGHT  
COMPANY PHASE II: AUGUST 2002-JULY 2003

DOCKET NOS  
EX02060363  
EA02060365

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

The Division of the Ratepayer Advocate ("RPA") by letter motion of December 7, 2005 has sought a full evidentiary hearing of the Jersey Central Power & Light Company's ("JCP&L" or "Company") Phase II Deferred Balances Audit, along with the merger of said audit matter with the Company's most recent Non-Utility Generation Charge Clause ("NGC") filing. The RPA made an additional motion by letter dated March 7, 2006 asking the Board of Public Utilities to compel the Company to fully respond, in a timely manner, to the RPA's previously propounded discovery requests.

**Procedural History:**

On July 29, 2002, the Board issued a Request for Proposal ("RFP") to secure the services of an independent auditor to conduct audits of New Jersey's four electric utilities ("Utilities") restructuring-related deferred balances. On October 2, 2002, Mitchell & Titus, LLP and its subcontractor Barrington-Wellesley Group, Inc. were engaged to perform the audit for Jersey Central Power & Light Company ("JCP&L" or "Utility"). The audit scope covered the period of August 1, 1999 through July 31, 2003 (the "Transition Period") and the impact of transactions therein on the deferred balances of JCP&L. The Phase I Audit examined deferred balances from August 1, 1999 to July 31, 2002. The Phase II Audit examined deferred balances from August 1, 2002 to July 31, 2003.

The objective of the Audits was to provide the Board with a certified audit opinion as to whether the Utility's deferred balances, as of July 31, 2003, were accurately calculated, correctly recorded, fairly stated in all material respects, and in compliance with Board Orders. The Audit also included a prudence review of the Utility's Basic Generation Service ("BGS") procurement

practices for the first three years of the Transition Period, for a utility that had divested its generation assets. The Audit also examined the Utility's mitigation efforts, consistent with applicable laws, with respect to the above-market Non-Utility Generation ("NUG") contract costs during the transition period.

Additionally, for the Phase I proceeding, the Board authorized full evidentiary hearings to address all accounting and prudence related issues. The RPA participated fully in the Phase hearings. The Board did not contemplate or authorize evidentiary hearings for Phase II.

At its December 2, 2005 agenda meeting, the Board acknowledged receipt of the Phase II Deferred Balances Audit Reports for JCP&L and ACE, and released the reports for public comment. By Secretary's Letter dated December 5, 2005, interested parties were directed to submit initial comments to the reports by January 10, 2006 and reply comments by January 24, 2006.

At its December 7, 2005, the Division of the Ratepayer Advocate ("RPA") filed a letter motion seeking full evidentiary hearings, along with a schedule specifying dates for discovery, testimony and briefings, and that JCP&L provide the RPA with completed copies of all responses to Mitchell & Titus' and Barrington-Wellesley Group's discovery requests, as well as any responses to Board Staff's discovery requests in the referenced matters. The RPA also sought the merger of JCP&L's Phase II Audit proceeding with its most recently filed Non-Utility Generation Charge Clause ("NGC") filing.

On December 16, 2005, JCP&L replied to the RPA's December 7, 2005 Motion stating that the Audit was not a contested case and that no party had the "right to a full evidentiary hearing, to propound formal discovery or to present witnesses and testimony."

On February 24, 2006, the RPA propounded sixteen discovery requests of JCP&L. On March 1, 2006, JCP&L informed the RPA that it would not respond to the sixteen discovery requests unless directed to do so by the Board. However, JCP&L offered to "make available for inspection" in Morristown copies of discovery responses provided by the Company to the auditors during the course of the Audit. The RPA did not avail itself of this option. And, on March 7, 2006, the RPA filed a letter motion asking the Board to compel JCP&L to fully respond, in a timely manner, to the RPA's previously propounded discovery requests.

On May 10, 2006, Victor Fortkiewicz sent the attached letter to the RPA outlining a course of action that would accommodate all parties in this matter. The Board will give the RPA an opportunity to participate in certain discovery related to the JCP&L Deferred Balance Phase II Audit materials. The schedule as set forth in the May 10<sup>th</sup> letter is an attempt to resolve the matter at hand and shall not have any precedential value. JCP&L shall deliver to the RPA responses most of the 16 interrogatories propounded on February 24, 2006 by May 9, 2006. Four interrogatories will be answered by JCP&L on May 11, 2006, and the last two interrogatories will be answered by JCP&L on May 15, 2006. May 25, 2006 is the deadline for the RPA to submit its written comments to the Board; and May 30, 2006 is the deadline for JCP&L to submit any responses to the RPA's comments.

Staff recommends the Board approve the schedule and actions set forth in Executive Director Fortkiewicz's May 10, 2006 Letter, *nunc pro tunc*. Staff also recommends that the Board defer consideration of the aforementioned motions filed by the RPA until the June 7, 2006 Agenda Meeting by which time the RPA comments will have been received.

The Board accepts Staff's recommendations and **HEREBY DIRECTS** that The Executive Director's Letter of May 10, 2006 setting forth a schedule and specific actions to be taken by both the Company and the RPA, be approved, *nunc pro tunc*. In addition, the Board **HEREBY DIRECTS** that consideration of the RPA's motions be deferred until the June 7, 2006 Agenda Meeting.

DATED:

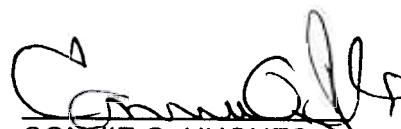
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BOARD OF PUBLIC UTILITIES

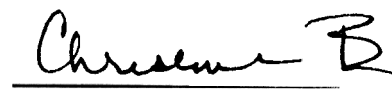
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
CONNIE O. HUGHES  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
CHRISTINE V. BATOR  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities

